

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

Wisconsin Resources Protection
Council, Center for Biological
Diversity, and Laura Gauger,

Plaintiffs,

v.

Case No. 11-cv-45-bbc

Flambeau Mining Company,

Defendant.

PARTIES' JOINT TRIAL EXHIBIT LIST

The undersigned parties respectfully and jointly agree that the following list of joint trial exhibits may be offered by both parties. The parties agree to the authenticity of the joint trial exhibits but reserve the right to object as indicated on the list. These joint trial exhibits shall be identified by white exhibit labels as "Joint Exhibits," beginning at Joint Ex. No. 1000 and numbered sequentially therefrom.

Dated this 14th day of May, 2012.

**WISCONSIN RESOURCES
PROTECTION COUNCIL,
CENTER FOR BIOLOGICAL
DIVERSITY, AND LAURA
GAUGER**

FLAMBEAU MINING COMPANY

/s/ James N. Saul
James N. Saul, Esq.
David C. Bender, Esq.
Christa Westerberg, Esq.
Pamela R. McGillivray, Esq.
MCGILLIVRAY WESTERBERG & BENDER LLC
211 S. Paterson Street, Ste. 320
Madison, WI 53703
Telephone: (608) 310-3568
Facsimile: (608) 310-3564
saul@mwbattorneys.com
bender@mwbattorneys.com
westerberg@mwbattorneys.com
mcgillivray@mwbattorneys.com

COUNSEL FOR PLAINTIFFS

/s/ Harry E. Van Camp
Harry E. Van Camp
Henry J. Handzel
DEWITT ROSS & STEVENS S.C.
2 East Mifflin Street, Suite 600
Madison, WI 53703-2865
Telephone: (608) 255-8891
Facsimile: (608) 252-0243
hvc@dwittross.com
hjh@dewittross.com

COUNSEL FOR DEFENDANT

WRPC et al. v. Flambeau Mining Company
Joint Trial Exhibit List
May 14, 2012

Legend for Objections:
R = Relevance
F = Foundation
H = Hearsay
26 = Rule 26 (Failure to disclose per Rule 26)
37 = Rule 37 (Inadmissible)
Exp-Op = Expert Testimony Opinion

Joint Trial Exhibit No.	Dep. Ex. No.	Bates Range	Description	Plaintiffs' Objections	Defendant's Objections
1000	16	WRPC000025- WRPC000223	Wis. Div. of Hearings and Appeals, Decision, Findings of Fact, Conclusions of Law, and Permits ("1991 Mining Permit") (Jan. 14, 1991)	R, H	R, F, H, 26, 37, Exp-Op
1001	31	WRPC015282- WRPC015296	Foth COC Stipulation Monitoring Plan	R, H	R, F, H, 26, 37, Exp-Op
1002	32	WRPC015297- WRPC015565	Foth Infrastructure & Environment, May 2011 Copper Park Business and Recreation Area Work Plan (May 2011)	R, H, Exp-Op	R, F, H, 26, 37, Exp-Op
1003	34	FMC002365- FMC002371	Letter from Jana Murphy to Lawrence Lynch, re: Draft 2004 Mid-Summer Progress Report (Nov. 10, 2004)	R, F, H	R, F, H, 26, 37, Exp-Op
1004	38	FMC000659- FMC000690	Flambeau Mining Company, 2010 Annual Report	R, H	R, F, H, 26, 37, Exp-Op
1005	46	FMC000868- FMC000870	Series of Email messages between Jana Murphy and Stephen Donohue (May 2004)		R, F, H, 26, 37, Exp-Op
1006	47	FMC000885- FMC000895	Flambeau Mining Company, Proposed Monitoring Plan for Intermittent Stream C (Aug. 5, 2004)		R, F, H, 26, 37, Exp-Op
1007	49	FMC002763- FMC002769	Kennecott Flambeau Mining Company SOP: Bio-Filter Sediment Deposition Monitoring (January 1, 2007)		R, F, H, 26, 37, Exp-Op
1008	53	FMC017739- FMC017741	Email from Jana Murphy to Dale Lueck (October 5, 2006)		R, F, H, 26, 37, Exp-Op
1009	54	FMC010525 - FMC010527	Kennecott Minerals 2007-2008 Operating Plan - Reclamation Properties		R, F, H, 26, 37, Exp-Op
1010	61	WRPC015566 - WRPC015849	1997 Supplement to the Surface Reclamation Plan	R, H	R, F, H, 26, 37, Exp-Op

WRPC et al. v. Flambeau Mining Company
Joint Trial Exhibit List
May 14, 2012

Legend for Objections:
R = Relevance
F = Foundation
H = Hearsay
26 = Rule 26 (Failure to disclose per Rule 26)
37 = Rule 37 (Inadmissible)
Exp-Op = Expert Testimony Opinion

Joint Trial Exhibit No.	Dep. Ex. No.	Bates Range	Description	Plaintiffs' Objections	Defendant's Objections
1011	83	WRPC000546 - WRPC000547	Letter from Lawrence Lynch to Laura (Gauger) Furtman (January 9, 2004)	R, H	R, F, H, 26, 37, Exp-Op
1012	132	WRPC015451 - WRPC015465	Stantec Consulting Services Inc., Wetland Delineation Report (February 17, 2011)		R, F, H, 26, 37, Exp-Op
1013	133		U.S. Army Corps of Engineers, Interim Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Northcentral and Northeast Region (October 2009)		R, F, H, 26, 37, Exp-Op
1014	134	WRPC015447	Figure, Foth Infrastructure & Environment LLC, "Figure 2: Existing Wetland Restoration Area Conditions" (May 2011)		R, F, H, 26, 37, Exp-Op
1015	137	WRPC015319	Foth Infrastructure & Environment LLC, "Figure 2-1: Existing Site Conditions" (May 2011)		R, F, H, 26, 37, Exp-Op
1016	139	WRPC015318	Foth Infrastructure & Environment LLC, "Figure 1-2: Flambeau Mine Copper Park Business and Recreation Area Work Plan Project Location Map" (May 2011)		R, F, H, 26, 37, Exp-Op
1017	145	FMCC002745 - FMCC002762	Biofilter Management Plan, Flambeau Mining Company (January 2007)		R, F, H, 26, 37, Exp-Op
1018	147		Foth Memorandum, Jim Hutchison to Jana Murphy (September 30, 2011)	R, H	R, F, H, 26, 37, Exp-Op
1019	153	FMCC041698 - FMCC04701	Appendix A to the Supplement	R, H	R, F, H, 26, 37, Exp-Op

WRPC et al. v. Flambeau Mining Company
Joint Trial Exhibit List
May 14, 2012

Legend for Objections:
R = Relevance
F = Foundation
H = Hearsay
26 = Rule 26 (Failure to disclose per Rule 26)
37 = Rule 37 (Inadmissible)
Exp-Op = Expert Testimony Opinion

Joint Trial Exhibit No.	Dep. Ex. No.	Bates Range	Description	Plaintiffs' Objections	Defendant's Objections
1020	154	FMC003598-FMC003799	Foth & Van Dyke, Mining Permit Application for the Flambeau Project, Volume I: Report Narrative (Revised December 1989)	R, H	R, F, H, 26, 37, Exp-Op
1021	163	AES000450	Memorandum from Steven I. Apfelbaum to Jana Murphy (May 28, 1998)	R, F, H	R, F, H, 26, 37, Exp-Op
1022	164 (in part)		Attachments (without expert report) to the expert report of Elizabeth A. Day (November 6, 2011)	R, F, H, Exp-Op	
1023	165		U.S. EPA & U.S. ACOE, Clean Water Act Jurisdiction Following the U.S. Supreme Court's Decision in Rapanos v. United States & Carabell v. United States (December 2, 2008)		R, F, H, 26, 37, Exp-Op
1024	169	WRPC015447	Foth Infrastructure & Environment, Figure 2: Existing Wetland Area (May 2011)		R, F, H, 26, 37, Exp-Op
1025	174 (in part)		Attachments, appendices, and figures (without expert report) to the expert report of Stephen V. Donohue (November 7, 2011)	R, F, H, Exp-Op	
1026	175 (in part)		Attachments, appendices, and figures (without expert report) to the expert report of Stephen V. Donohue (March 28, 2011)	R, F, H, Exp-Op	
1027	176	FMC013797-FMC013801	Foth & Van Dyke Memorandum, Steve Donohue to Jana Murphy (January 10, 2005)	R, H	R, F, H, 26, 37, Exp-Op
1028	180	WRPC017341-WRPC017380	Wisconsin Department of Natural Resources, "Surface Water Quality Assessment of the Flambeau Mine Site" (April, 2012)		R, F, H, 26, 37, Exp-Op

WRPC et al. v. Flambeau Mining Company
Joint Trial Exhibit List
May 14, 2012

Legend for Objections:
R = Relevance
F = Foundation
H = Hearsay
26 = Rule 26 (Failure to disclose per Rule 26)
37 = Rule 37 (Inadmissible)
Exp-Op = Expert Testimony Opinion

Joint Trial Exhibit No.	Dep. Ex. No.	Bates Range	Description	Plaintiffs' Objections	Defendant's Objections
1029	181	WRPC017381 - WRPC017382	Appendix 1, Sheet 3 ("Complete DNR Surface Water Sample Lab Results Plus Calculated ATCs for Copper, Zinc, and Field Conductivity") to the report entitled "Surface Water Quality Assessment of the Flambeau Mine Site," Wisconsin Department of Natural Resources (April, 2012)		R, F, H, 26, 37, Exp-Op
1030	182	WRPC017383 - WRPC017387	Appendix 2 ("Flambeau Mine Surface Water Quality Data") to the report entitled "Surface Water Quality Assessment of the Flambeau Mine Site," Wisconsin Department of Natural Resources (April, 2012)		R, F, H, 26, 37, Exp-Op
1031	183	WRPC017389 - WRPC017393	Appendix 1, Sheets 1 ("Selected DNR Surface Water Sample Lab Results plus Calculated ATCs for Copper and Zinc, and Field Conductivity") and 2 ("DNR Surface Water Site Field Measurements") to the report entitled <i>Surface Water Quality Assessment of the Flambeau Mine Site</i> , Wisconsin Department of Natural Resources (April, 2012)		R, F, H, 26, 37, Exp-Op
1032	184	WRPC017394 - WRPC017400	Jeffrey Dimnick, Flambeau Mine Site 303(d) Project, Macroinvertebrate Sampling and Analysis - Fall 2010	R, F, H, Exp-Op	R, F, H, 26, 37, Exp-Op
1033	185		Wisconsin Department of Natural Resources, Surface Water Data Viewer, Map (April 20, 2012)	R, F, H, Exp-Op	
1034	123 (in part)		Figures 1 - 3 of the Expert Report of Robert J. Nauta (March 8, 2012)		R, F, H, 26, 37, Exp-Op

WRPC et al. v. Flambeau Mining Company
Joint Trial Exhibit List
May 14, 2012

Legend for Objections:
R = Relevance
F = Foundation
H = Hearsay
26 = Rule 26 (Failure to disclose per Rule 26)
37 = Rule 37 (Inadmissible)
Exp-Op = Expert Testimony Opinion

Joint Trial Exhibit No.	Dep. Ex. No.	Bates Range	Description	Plaintiffs' Objections	Defendant's Objections
1035	124 (in part)		Table C, page 13, of the Expert Report of David Chambers (March 9, 2012)		R, F, H, 26, 37, Exp-Op
1036	124 (in part)		Table, "Flambeau Water Quality Data," pages 16-17 of the Expert Report of David Chambers (March 9, 2012)		R, F, H, 26, 37, Exp-Op
1037	52	FMC016404-FMC016405	Letter to Ross Evavold, Chippewa Herald from Jana Murphy		R, F, H, 26, 37, Exp-Op